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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,516	10/27/2003	Kenneth Stephen Paris		2677

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Mr. Kenneth S. Paris  
6015 Fox Hill Drive  
Longmont, CO 80501

EXAMINER
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BAHTA, ABRAHAM

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/694,516

Applicant(s)

PARIS, KENNETH STEPHEN

Examiner

Abraham Bahta

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: the following suggestion is made: On page 4, line 1 replace "dia" with --diameter--. Appropriate correction is required.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show penetrations and attachment holes (page 4, paragraph 0104), spring clips (23) (page 5, paragraph 0114) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites that the apparatus comprises a canister and claims 2-4, which depend from 1 recite the apparatus, comprises a dirt receptacle. It is not clear if Applicant is referring to the canister recited in claim 1 or a separate receptacle from the canister. If the receptacle is the canister, claim 2 does not appear to further limit claim 1.

Claim 1 recites the limitation "the unit" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the unit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the debris receptacle" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the bottom dirt receptacle" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the top cap" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claims 3-5 recite the limitation "the main body" in line 2. There is insufficient antecedent basis for these limitations in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roy et al (USP 6,568,026) in view of Soler et al (USP 5,267,371) taken with Vollenweider, II (USP 6,049,941) and Gutry (USP 6,519,809).

Roy et al teach a portable back pack vacuum device comprising a housing (12) (co. 3, lines 16-21), a removable canister (32) provided at the bottom portion of the device (col. 4, line 1), a handle (24) located at the top portion of the device housing (12) for assisting in lifting the device (col. 3, lines 28-31) and a hose attached to the housing at one distal end by means of a swivel base (36) (col. 3, lines 38-43). The portable back pack vacuum is provided with a waist belt (16) and shoulder straps (col. 3, lines 26-29).

Roy et al do not require a cylindrical housing and cylindrical canister; however, it is well known that housing of a portable back-pack vacuum may be cylindrical. For

example, Soler et al teach that canister vacuum cleaner are substantially cylindrical in shape. See col. 1, lines 25-27.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified the device of Roy et al by providing cylindrical housing and cylindrical canister so that the housing of the vacuum may conform to the contour of the user's back when the portable backpack vacuum device is carried on the back of the user.

As to the limitation that the cylindrical housing is constructed from PVC as recited in claim 1, it is well known that components of an operator carried cleaning device are made of polyvinyl chloride (PVC) in order to keep operator fatigue down. For example Gutry teaches a gutter cleaner device comprising a head and a handle wherein the head is connected to a vacuum cleaner for suctioning debris from gutters. Gutry teaches the gutter cleaner is made from a light weight material such as polyvinyl chloride in order to facilitate control during use and keep operator fatigue down. See col. 4, lines 53-59.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have fabricated the vacuum housing of Roy et al from polyvinyl chloride material because polyvinyl chloride is relatively light and can support its own weight and in order to keep operator fatigue down as shown by Gutry.

Claims 2: Roy et al teach a removable canister (32) is provided at the bottom portion of the device (col. 4, line 1).

Claim 4: Roy et al teach the device comprises a gasket (48) located between the junction where the filter canister (32) and vacuum housing (12) meet so that an air tight seal when the locking clips (34) are engaged can be produced, to prevent external air pressure from entering the vacuum from other means than the hose. See col. 4, lines 43-49.

***Claim Rejections - 35 USC § 103***

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy et al in view of Soler et al taken with Vollenweider and Gutry as applied to claim 1 above and further in view of Dietrich (USP 5,768,734).

Roy et al, Soler et al, Vollenweider and Gutry are discussed above. Roy et al do not require a bungee cord for connecting the receptacle/canister to the device; however, connecting a receptacle/bag to a vacuum device by a bungee cord is well known. For example, Dietrich teaches a vacuum comprising a bag/receptacle wherein the bag/receptacle is secured to the housing of the vacuum by a bungee cord. See col. 4, lines 56-64.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a bungee cord in the apparatus of Roy et al in order to hold connect the receptacle to the main body of the vacuum apparatus as shown in Dietrich as it is considered a functional equivalent alternative to seal in Roy et al.

***Claim Rejections - 35 USC § 103***

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roy et al in view of Soler et al (USP 5,267,371) taken with Vollenweider, II (USP 6,049,941) and

Art Unit: 1744

Gutry (USP 6,519,809) as applied to claim 1 above and further in view of Shideler (USP 6,553,610).

Roy et al, Soler et al, Vollenweider, II, and Gutry are discussed above. Roy et al do not require a cap attached to the main body/housing; however, it is known to provide top caps to canisters in order to have access to both sides of the vacuum apparatus as shown in Shideler. See col. 3, lines 47-55. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have provided a cap to the apparatus of Roy et al in order to cover and have access to both of sides of the vacuum apparatus as shown in Shideler. *NOTE: AS TO THE SPACER AND SEAL, SUCH ARE CONSIDERED WELL KNOWN IN THE ART AND FURTHER EXEMPLIFIED BY THE CONNECTION FOR THE BOTTOM CANISTER IN ROY.*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abraham Bahta whose telephone number is (571) 272-1532. The examiner can normally be reached on Monday - Tuesday; 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 1744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



A. Bahta  
05/23/06



GLADYS JP CORCORAN  
SUPERVISORY PATENT EXAMINER